

ASSEMBLY BILL

No. 2585

Introduced by Assembly Member Nestande

February 24, 2012

An act to amend Sections 27315, 27360, 27360.5, 27361, 27363, 27363.5, and 27365 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2585, as introduced, Nestande. Vehicles: child passenger restraints.

(1) Existing law prohibits the operator of a limousine for hire or authorized emergency vehicle or the operator of a taxicab, from operating the limousine for hire, authorized emergency vehicle, or taxicab unless the operator and any passengers 8 years of age or older in the front seat are properly restrained by a safety belt.

This bill would instead prohibit the operator of a limosine for hire or authorized emergency vehicle or the operator of a taxicab, from operating the limosine for hire, authorized emergency vehicle, or taxicab unless the operator and any passengers 6 years of age or over or weighing 60 pounds or more in the front seat are properly restrained by a safety belt.

Existing law prohibits a parent, legal guardian, or driver from transporting on a highway in a motor vehicle, as defined, a child or ward who is under 8 years of age without properly securing that child in an appropriate child passenger restraint system meeting applicable federal motor vehicle safety standards, except as provided. Existing law provides a similar prohibition for transporting a child 6 years of age or older, but less than 16 years of age, which requires the child to be properly secured with either a child passenger restraint system or

safety belt, meeting the applicable federal motor vehicle safety standards.

This bill would instead prohibit a parent, legal guardian, or driver from transporting on a highway in a motor vehicle a child or ward who is under 6 years of age or who weighs less than 60 pounds without properly securing that child in a rear seat in a child passenger restraint system that meets specified federal standards. The bill would apply the requirements of the latter prohibition, which permits certain children to be secured in either the child passenger restraint system or a safety belt, to a child who is less than 6 years of age and who weighs 60 pounds or more.

Existing law authorizes a law enforcement officer reasonably suspecting a violation of those child passenger restraint laws to stop a vehicle transporting a child appearing to the officer to be within the age range of under 8 years of age.

This bill would instead authorize a law enforcement officer reasonably suspecting a violation of those requirements to stop a vehicle transporting a child appearing to the officer to be within a specified age or weight range of under 6 years of age or less than 60 pounds.

Existing law permits a court to exempt from the above-described child passenger restraint system requirements any class of child by age, weight, or size if it is determined that the use of a child passenger restraint system would be impracticable by reason of physical unfitness, medical condition, or size, subject to certain exemptions, and specifies that a child or ward under 8 years of age who is 4 feet 9 inches in height or taller may be properly restrained by a safety belt rather than a child passenger restraint system. Existing law permits a child or ward 8 years of age or older to ride properly secured in an appropriate child passenger restraint system meeting federal standards in the front seat of a motor vehicle, in specified circumstances.

This bill would delete those provisions permitting a child or ward under 8 years of age who is 4 feet 9 inches in height to be properly restrained by a safety belt rather than a child passenger restraint system. The bill would instead permit a child or ward six years of age or less than 60 pounds to ride properly secured in an appropriate child passenger restraints system meeting federal standards in the front seat of a motor vehicle, in specified circumstances.

Existing law requires a public or private hospital, clinic, or birthing center, at the time of discharge of a child, to provide and discuss information on the current law requiring child passenger restraint

systems, safety belts, and the transportation of children in rear seats to the parents or person to whom the child is released if the child is under 8 years of age.

This bill would instead require a public or private hospital, clinic, or birthing center, at the time of the discharge of a child to provide and discuss information on the current law requiring child passenger restraint systems to the parents or person to whom the child is released if the child is under 6 years of age or weighs less than 60 pounds.

Existing law requires every car rental agency in California to inform each of its customers of a specified child safety restraint law by posting, in a place conspicuous to the public in each established place of business of the agency, a notice that meets specified requirements, including certain language to be included in the notice, with regard to the application of those child safety restraint laws to children under 8 years of age.

This bill would revise the language that would be required to be included in the notice to specify that California law requires that children who are under 6 years of age or who weigh less than 60 pounds be transported in the rear seat of a vehicle in a child restraint system.

Because a violation of the vehicle law constitutes a crime, the bill would impose a state-mandated program by changing the scope of an existing crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 27315 of the Vehicle Code is amended
- 2 to read:
- 3 27315. (a) The Legislature finds that a mandatory seatbelt law
- 4 will contribute to reducing highway deaths and injuries by
- 5 encouraging greater usage of existing manual seatbelts, that
- 6 automatic crash protection systems that require no action by vehicle
- 7 occupants offer the best hope of reducing deaths and injuries, and
- 8 that encouraging the use of manual safety belts is only a partial

1 remedy for addressing this major cause of death and injury. The
2 Legislature declares that the enactment of this section is intended
3 to be compatible with support for federal motor vehicle safety
4 standards requiring automatic crash protection systems and should
5 not be used in any manner to rescind federal requirements for
6 installation of automatic restraints in new cars.

7 (b) This section shall be known and may be cited as the Motor
8 Vehicle Safety Act.

9 (c) (1) As used in this section, “motor vehicle” means a
10 passenger vehicle, a motortruck, or a truck tractor, but does not
11 include a motorcycle.

12 (2) For purposes of this section, a “motor vehicle” also means
13 a farm labor vehicle, regardless of the date of certification under
14 Section 31401.

15 (d) (1) A person shall not operate a motor vehicle on a highway
16 unless that person and all passengers 16 years of age or over are
17 properly restrained by a safety belt. This paragraph does not apply
18 to the operator of a taxicab, as defined in Section 27908, when the
19 taxicab is driven on a city street and is engaged in the transportation
20 of a fare-paying passenger. The safety belt requirement established
21 by this paragraph is the minimum safety standard applicable to
22 employees being transported in a motor vehicle. This paragraph
23 does not preempt more stringent or restrictive standards imposed
24 by the Labor Code or another state or federal regulation regarding
25 the transportation of employees in a motor vehicle.

26 (2) For purposes of this section the phrase, “properly restrained
27 by a safety belt” means that the lower (lap) portion of the belt
28 crosses the hips or upper thighs of the occupant and the upper
29 (shoulder) portion of the belt, if present, crosses the chest in front
30 of the occupant.

31 (3) The operator of a limousine for hire or the operator of an
32 authorized emergency vehicle, as defined in subdivision (a) of
33 Section 165, shall not operate the limousine for hire or authorized
34 emergency vehicle unless the operator and any passengers ~~eight~~
35 ~~years of age or over six years of age or over or weighing 60 pounds~~
36 ~~or more~~ in the front seat, are properly restrained by a safety belt.

37 (4) The operator of a taxicab shall not operate the taxicab unless
38 any passengers ~~eight years of age or over six years of age or over~~
39 ~~or weighing 60 pounds or more~~ in the front seat, are properly
40 restrained by a safety belt.

1 (e) A person 16 years of age or over shall not be a passenger in
2 a motor vehicle on a highway unless that person is properly
3 restrained by a safety belt. This subdivision does not apply to a
4 passenger in a sleeper berth, as defined in subdivision (x) of Section
5 1201 of Title 13 of the California Code of Regulations.

6 (f) An owner of a motor vehicle, including an owner or operator
7 of a taxicab, as defined in Section 27908, or a limousine for hire,
8 operated on a highway shall maintain safety belts in good working
9 order for the use of the occupants of the vehicle. The safety belts
10 shall conform to motor vehicle safety standards established by the
11 United States Department of Transportation. This subdivision,
12 however, does not require installation or maintenance of safety
13 belts if it is not required by the laws of the United States applicable
14 to the vehicle at the time of its initial sale.

15 (g) This section does not apply to a passenger or operator with
16 a physically disabling condition or medical condition that would
17 prevent appropriate restraint in a safety belt, if the condition is
18 duly certified by a licensed physician and surgeon or by a licensed
19 chiropractor who shall state the nature of the condition, as well as
20 the reason the restraint is inappropriate. This section also does not
21 apply to a public employee, if the public employee is in an
22 authorized emergency vehicle as defined in paragraph (1) of
23 subdivision (b) of Section 165, or to a passenger in a seat behind
24 the front seat of an authorized emergency vehicle as defined in
25 paragraph (1) of subdivision (b) of Section 165 operated by the
26 public employee, unless required by the agency employing the
27 public employee.

28 (h) Notwithstanding subdivision (a) of Section 42001, a violation
29 of subdivision (d), (e), or (f) is an infraction punishable by a fine
30 of not more than twenty dollars (\$20) for a first offense, and a fine
31 of not more than fifty dollars (\$50) for each subsequent offense.
32 In lieu of the fine and any penalty assessment or court costs, the
33 court, pursuant to Section 42005, may order that a person convicted
34 of a first offense attend a school for traffic violators or another
35 court-approved program in which the proper use of safety belts is
36 demonstrated.

37 (i) In a civil action, a violation of subdivision (d), (e), or (f), or
38 information of a violation of subdivision (h), does not establish
39 negligence as a matter of law or negligence per se for comparative

1 fault purposes, but negligence may be proven as a fact without
2 regard to the violation.

3 (j) If the United States Secretary of Transportation fails to adopt
4 safety standards for manual safety belt systems by September 1,
5 1989, a motor vehicle manufactured after that date for sale or sold
6 in this state shall not be registered unless it contains a manual
7 safety belt system that meets the performance standards applicable
8 to automatic crash protection devices adopted by the United States
9 Secretary of Transportation pursuant to Federal Motor Vehicle
10 Safety Standard No. 208 (49 C.F.R. 571.208) as in effect on
11 January 1, 1985.

12 (k) A motor vehicle offered for original sale in this state that
13 has been manufactured on or after September 1, 1989, shall comply
14 with the automatic restraint requirements of Section S4.1.2.1 of
15 Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R.
16 571.208), as published in Volume 49 of the Federal Register, No.
17 138, page 29009. An automobile manufacturer that sells or delivers
18 a motor vehicle subject to this subdivision, and fails to comply
19 with this subdivision, shall be punished by a fine of not more than
20 five hundred dollars (\$500) for each sale or delivery of a
21 noncomplying motor vehicle.

22 (l) Compliance with subdivision (j) or (k) by a manufacturer
23 shall be made by self-certification in the same manner as
24 self-certification is accomplished under federal law.

25 (m) This section does not apply to a person actually engaged in
26 delivery of newspapers to customers along the person's route if
27 the person is properly restrained by a safety belt prior to
28 commencing and subsequent to completing delivery on the route.

29 (n) This section does not apply to a person actually engaged in
30 collection and delivery activities as a rural delivery carrier for the
31 United States Postal Service if the person is properly restrained
32 by a safety belt prior to stopping at the first box and subsequent
33 to stopping at the last box on the route.

34 (o) This section does not apply to a driver actually engaged in
35 the collection of solid waste or recyclable materials along that
36 driver's collection route if the driver is properly restrained by a
37 safety belt prior to commencing and subsequent to completing the
38 collection route.

39 (p) Subdivisions (d), (e), (f), (g), and (h) shall become
40 inoperative immediately upon the date that the United States

1 Secretary of Transportation, or his or her delegate, determines to
2 rescind the portion of the Federal Motor Vehicle Safety Standard
3 No. 208 (49 C.F.R. 571.208) that requires the installation of
4 automatic restraints in new motor vehicles, except that those
5 subdivisions shall not become inoperative if the secretary's decision
6 to rescind that Standard No. 208 is not based, in any respect, on
7 the enactment or continued operation of those subdivisions.

8 SEC. 2. Section 27360 of the Vehicle Code is amended to read:

9 27360. (a) Except as provided in Section 27363, a parent, legal
10 guardian, or driver shall not transport on a highway in a motor
11 vehicle, as defined in paragraph (1) of subdivision (3) of Section
12 27315, a child or ward who is ~~under eight years of age~~ *six years*
13 *of age or weighs less than 60 pounds*, without properly securing
14 that child in a rear seat in an appropriate child passenger restraint
15 system meeting applicable federal motor vehicle safety standards.

16 (b) Subdivision (a) does not apply to a driver if the parent or
17 legal guardian of the child is also present in the motor vehicle and
18 is not the driver.

19 SEC. 3. Section 27360.5 of the Vehicle Code is amended to
20 read:

21 27360.5. (a) A parent, legal guardian, or driver shall not
22 transport on a highway in a motor vehicle, as defined in paragraph
23 (1) of subdivision (c) of Section 27315, a child or ward who is
24 ~~eight~~ *six* years of age or older, but less than 16 years of age, *or*
25 *who is less than six years of age and who weighs 60 pounds or*
26 *more*, without properly securing that child or ward in an appropriate
27 child passenger restraint system or safety belt meeting applicable
28 federal motor vehicle safety standards.

29 (b) Subdivision (a) does not apply to a driver if the parent or
30 legal guardian of the child is also present in the motor vehicle and
31 is not the driver.

32 SEC. 4. Section 27361 of the Vehicle Code is amended to read:

33 27361. A law enforcement officer reasonably suspecting a
34 violation of Section 27360 or 27360.5, or both of those sections,
35 may stop a vehicle transporting a child appearing to the officer to
36 be within the age *or weight* specified in Section 27360 or 27360.5.
37 The officer may issue a notice to appear for a violation of Section
38 27360 or 27360.5.

39 SEC. 5. Section 27363 of the Vehicle Code is amended to read:

27363. (a) The court may exempt from the requirements of this article any class of child by age, weight, or size if it is determined that the use of a child passenger restraint system would be impractical by reason of physical unfitness, medical condition, or size. The court may require satisfactory proof of the child's physical unfitness, medical condition, or size and that an appropriate special needs child passenger restraint system is not available.

(b) In case of a life-threatening emergency, or when a child is being transported in an authorized emergency vehicle, if there is no child passenger restraint system available, a child may be transported without the use of that system, but the child shall be secured by a seatbelt.

(c) A child weighing more than 40 pounds may be transported in the backseat of a vehicle while wearing only a lap safety belt when the backseat of the vehicle is not equipped with a combination lap and shoulder safety belt.

~~(d) Notwithstanding Section 27360, a child or ward under eight years of age who is four feet nine inches in height or taller may be properly restrained by a safety belt, as defined in paragraph (2) of subdivision (d) of Section 27315, rather than by a child passenger restraint system.~~

~~(e)~~

(d) Notwithstanding Section 27360, a child or ward who is under eight six years of age or who weighs less than 60 pounds may ride properly secured in an appropriate child passenger restraint system meeting applicable federal motor vehicle safety standards in the front seat of a motor vehicle under any of the following circumstances:

- (1) There is no rear seat.
- (2) The rear seats are side-facing jump seats.
- (3) The rear seats are rear-facing seats.
- (4) The child passenger restraint system cannot be installed properly in the rear seat.
- (5) All rear seats are already occupied by children seven years of age or under.
- (6) Medical reasons necessitate that the child or ward not ride in the rear seat. The court may require satisfactory proof of the child's medical condition.

~~(f)~~

1 (e) Notwithstanding subdivision ~~(e)~~ (d), a child shall not be
2 transported in a rear-facing child passenger restraint system in the
3 front seat of a motor vehicle that is equipped with an active frontal
4 passenger airbag.

5 SEC. 6. Section 27363.5 of the Vehicle Code is amended to
6 read:

7 27363.5. (a) A public or private hospital, clinic, or birthing
8 center, shall, at the time of the discharge of a child provide and
9 discuss information on the current law requiring child passenger
10 restraint systems, safety belts, and the transportation of children
11 in rear seats to the parents or the person to whom the child is
12 released if ~~the child is under eight years of age.~~ *at least one of the*
13 *following requirements are met:*

14 (1) *The child is less than six years of age.*

15 (2) *The child weighs less than 60 pounds.*

16 (b) A public or private hospital, clinic, or birthing center shall
17 not be responsible for the failure of the parent or person to whom
18 the child is released to properly transport the child.

19 SEC. 7. Section 27365 of the Vehicle Code is amended to read:

20 27365. (a) (1) A car rental agency in California shall inform
21 each of its customers of Section 27360 by posting, in a place
22 conspicuous to the public in each established place of business of
23 the agency, a notice not smaller than 15 by 20 inches which states
24 the following:

25 “CALIFORNIA LAW REQUIRES ALL CHILDREN UNDER
26 ~~8~~ 6 YEARS OF AGE *OR WHO WEIGH LESS THAN 60 POUNDS*
27 *TO BE TRANSPORTED IN THE REAR SEAT OF THE*
28 *VEHICLE IN A CHILD RESTRAINT SYSTEM. THIS AGENCY*
29 *IS REQUIRED TO PROVIDE FOR RENTAL OF A CHILD*
30 *RESTRAINT SYSTEM IF YOU DO NOT HAVE A CHILD*
31 *RESTRAINT SYSTEM YOURSELF.”*

32 (2) The posted notice specified in paragraph (1) is not required
33 if the car rental agency’s place of business is located in a hotel that
34 has a business policy prohibiting the posting of signs or notices in
35 any area of the hotel. In that case, a car rental agency shall furnish
36 a written notice to each customer that contains the same
37 information as required for the posted notice.

38 (b) Every car rental agency in California shall have available
39 for, and shall, upon request, provide for rental to, adults traveling
40 with children ~~under eight~~ *six* years of age, child passenger restraint

1 systems that are certified by the manufacturer to meet applicable
2 federal motor vehicle safety standards for use by children *weighing*
3 *less than 60 pounds*, are in good and safe condition, with no
4 missing original parts, and are not older than five years.

5 (c) A violation of this section is an infraction punishable by a
6 fine of one hundred dollars (\$100).

7 SEC. 8. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.